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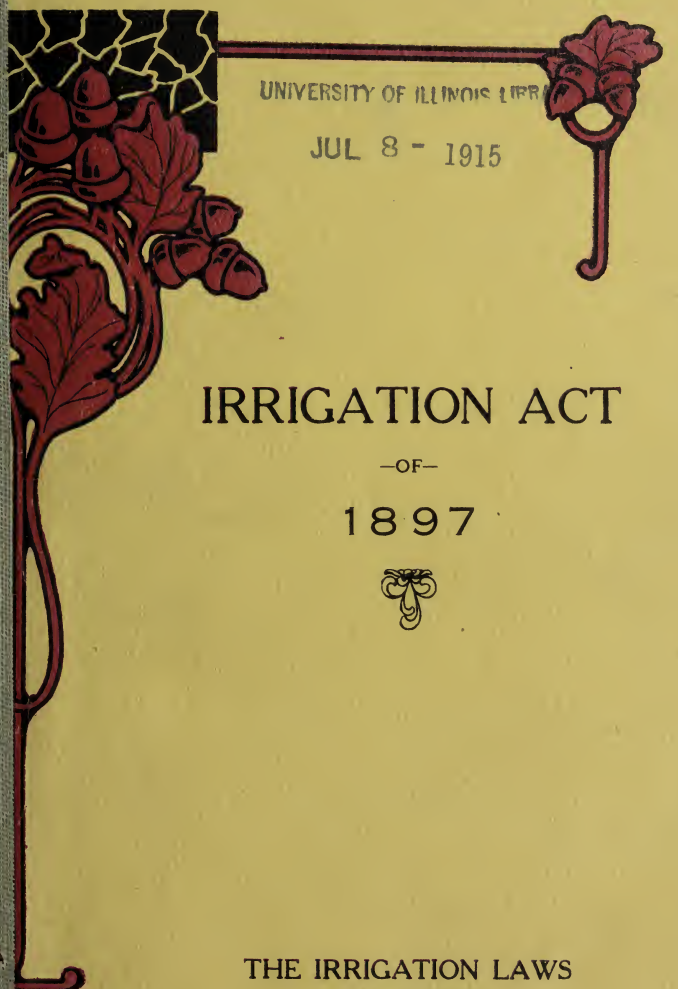
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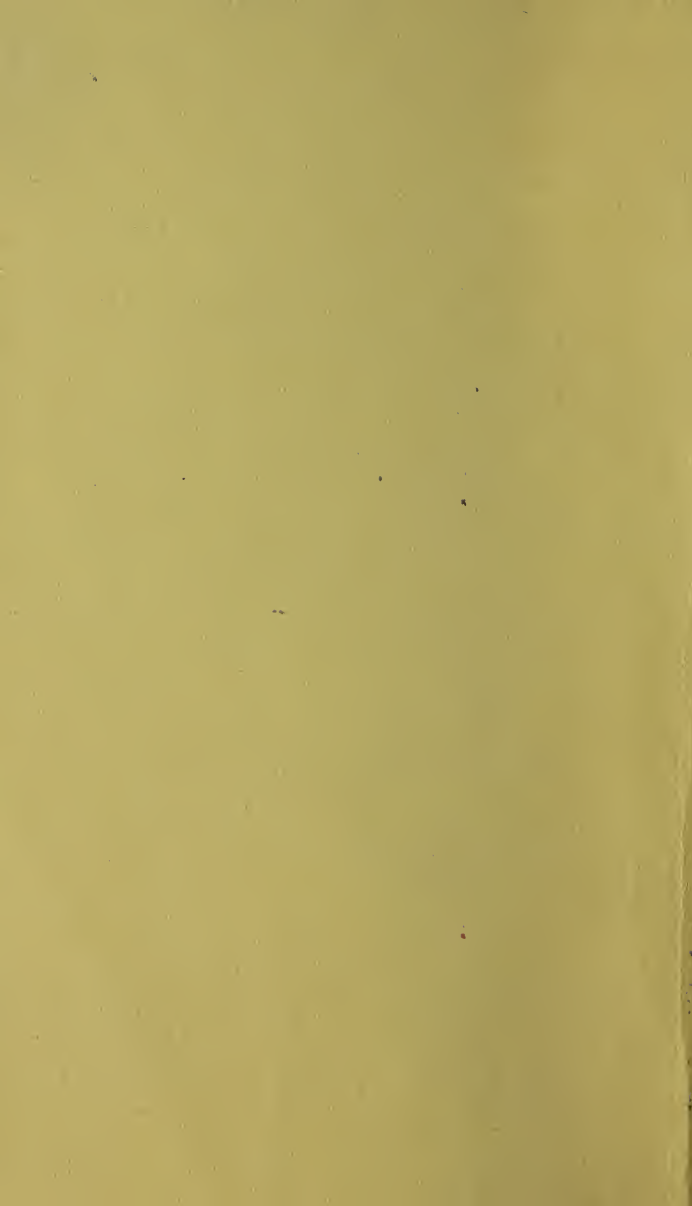
IRRIGATION ACT

—OF—

1897



THE IRRIGATION LAWS
OF CALIFORNIA



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PREFACE JUL 8 - 1915

In 1887 the Legislature of California passed the first act providing for the organization of irrigation districts.

This was known as the "Wright" act, and constituted a new departure in legislation. It provided for the creation of public corporations, municipal or quasi-municipal in nature, with powers very different, however, from the powers exercised by other municipal or quasi-municipal corporations.

Immediately after the passage of the so-called Wright act, the Legislatures of Colorado, Idaho, Kansas, Nebraska, Washington, Utah and Texas passed acts very similar in nature, and in many cases exactly identical. In some of these states such acts have been repealed, but in most of them they are still in operation.

In 1897 a new act was passed embodying most of the provisions of the original act, but modifying it in some particulars in which experience had shown it to be defective. It superseded all previous acts and is now the law governing the organization and operation of irrigation districts.

The law relative to irrigation districts is now as well settled as that relative to municipal corporations organized under the general municipal acts of the state.

The act has justified itself and resulted in a phenomenal development in the regions where it has been given a trial. The day of private irrigation enterprises on a large scale has passed and in the absence of a comprehensive scheme of irrigation under state control, which does not seem feasible at the present time, this appears to be the only method by which large and fertile areas of arid and semi-arid regions can be brought under cultivation.

In Central California there are two districts, known as the Modesto and Turlock Districts, containing over 250,000 acres of land, which were the pioneers in this movement. In addition to these districts, the Alta, Tulare, South San Joaquin, Oakdale, Imperial, San Ysidro and Waterford Districts are now in existence, and steps are being taken for the organization of other districts.

In the other states where this law is in operation, numerous districts are also in existence.

For some inscrutable reason the securities of these districts have not been looked upon favorably by the banking interests of California, although this law has contributed more to the material wealth of the state than probably any other single legislative act. The legislature of 1911 attempted to overcome this antagonism by legislation which has placed the bonds of these districts in the same class as other municipal bonds for investment purposes, and also provided for a sort of state supervision. With the amendments which have since been made these securities are now recognized as equal to any other municipal securities and have found ready sale.

Modesto, Cal., September, 1913.



IRRIGATION ACT

—OF—

1897

An Act to Provide for the Organization and Government of Irrigation Districts, and to Provide for the Acquisition or Construction Thereby of Works for the Irrigation of the Lands Embraced Within Such Districts, and, Also, to Provide for the Distribution of Water for Irrigation Purposes.

(Approved March 31, 1897. Stats., p. 254.)

The People of the State of California, represented in Senate and Assembly, do enact as follows:

Organization.

Section 1. A majority in number of the holders of title, or evidence of title, including the holders of possessory rights under receipts or other evidence of the rights of entrymen or purchasers under any law of the United States or of this state, to lands susceptible of irrigation from a common source and by the same system of works, such holders of title, or evidence of title and of possessory rights, representing a majority in value of said lands, according to the equalized county assessment roll or rolls for the year last preceding, may propose the organization of an irrigation district, under the provisions of this act. Said equalized assessment roll or rolls shall be sufficient evidence of title and of such possessory rights, for the purposes of this act. (1911.)

Section 2. In order to propose the organization of an irrigation district, a petition shall be presented to the board of supervisors of the county in which the lands within the proposed district, or the greater portion thereof, are situated, signed by the required number of holders of title, or evidence of title, including such aforesaid possessory rights, to lands within such proposed district, and representing the requisite majority in value of said lands, which petition shall set forth generally the boundaries of the proposed district and also shall state generally the source or sources (which may be in the alternative) from which said lands are proposed to be irrigated, and shall pray that the territory embraced within the boundaries of the proposed district may be organized as an irrigation

district under the provisions of this act. The petition may consist of any number of separate instruments, and must be accompanied with a good and sufficient undertaking, to be approved by the board of supervisors, in double the amount of the probable cost of organizing such district, conditioned that the sureties shall pay all of said costs in case said organization shall not be effected. Said petition shall be presented at a regular meeting of said board and shall be published for at least two weeks before the time at which the same is to be presented in some newspaper of general circulation printed and published in the county where said petition is presented, together with a notice stating the time of the meeting at which the same will be presented; and if any portion of the lands within said proposed district lie within another county or counties, then said petition and notice shall be published, as above provided, in a newspaper published in each of said counties. When contained upon more than one instrument, one copy only of such petition need be published, but the names attached to all of said instruments must appear in such publication. On or before the day on which said petition is presented to said board of supervisors, a copy of said petition shall be filed in the office of the state engineer. When said petition is presented, said board of supervisors shall hear the same and shall proceed to determine whether or not said petition complies with the requirements hereinbefore set forth and whether or not the notice required herein has been published as required, and must hear all competent and relevant testimony offered in support of or in opposition thereto. Said hearing may be adjourned from time to time for the determination of said facts, not exceeding two weeks in all. No defect in the contents of the petition or in the title to or form of the notice or signatures, or lack of signatures thereto, shall vitiate any proceedings thereon; provided, such petition or petitions have a sufficient number of qualified signatures attached thereto. The determination of the board shall be expressed by resolution. If it shall determine that any of the requirements hereinbefore set forth have not been complied with, the matter shall be dismissed, but without prejudice to the right of the proper number of persons to present a new petition covering the same matter or to present the same petition with additional signatures, if such additional signatures are necessary to comply with the requirements of this act. If the board of supervisors shall determine that the petitioners have complied with the requirements hereinbefore set forth, it shall cause a copy of the resolution so declaring to be forwarded to the state engineer and shall postpone further hearing of said petition for one month, or from time to time, not exceeding one month in all. Upon receiving a copy of said resolution, the state engineer shall make or cause to be made such an investigation as may be practicable, with a view to determining whether any condition or conditions exist that would justify him in reporting against the organization of the proposed district. He shall report in writing on the matter to the board of supervisors from which the copy of said resolution was received, and said report shall be made within one month from the date of the adoption of said resolution, but failure by the state engineer to perform any duty required herein shall not invalidate the organization of any district, nor shall any board of supervisors, because of failure to receive a report from the state engineer, delay the proceedings herein required for a longer time than is allowed herein. If the state engineer shall report that the supply of water available for the use of the proposed district, or that may be acquired by any practicable means, including the condemnation of existing rights, is not sufficient or that the

project is not feasible for any other reason or reasons and if such report shall be filed with the said board of supervisors before the expiration of one month from and after the date of the adoption of the aforesaid resolution, the hearing of the petition shall again be continued for one month and shall then be dismissed, unless the board of supervisors shall be requested in writing by three-fourths of the holders of title or evidence of title, including possessory rights, to lands within said proposed district to grant the same; provided, that if such request is not received, the board of supervisors may modify the plans for the proposed district in accordance with recommendations by the state engineer. If the report of the state engineer shall not compel the continuance of the matter as aforesaid, the board of supervisors shall, at the regular meeting at which said report shall have been received, proceed to a final hearing of the petition, and if said board shall, after receiving an adverse report from the state engineer, decide to modify the plan as set forth in said petition or shall be requested in writing by three-fourths of the holders of title or evidence of title, including possessory rights, to the lands within said proposed district to grant said petition, said board shall then proceed to a final hearing of the matter. On any final hearing herein provided for, the board may adjourn from day to day, but not for a longer time, until a determination of the matter is reached. On said final hearing said board shall make such changes in the proposed boundaries as it may deem advisable and shall define and establish such boundaries; but said board shall not modify said boundaries so as to exclude from such proposed district any territory which is susceptible of irrigation from any of the sources proposed, unless said board shall decide to modify the plan for such proposed district, as herein provided, nor shall any lands which will not, in the judgment of said board, be benefited by irrigation by means of any of said systems of works be included within such proposed district. Any person whose lands are susceptible of irrigation from any of the proposed sources may, upon his application, in the discretion of said board, have such lands included within said proposed district. (1913.)

Section 3. Upon the final hearing of said petition or said matter, the board of supervisors shall make an order reaffirming its conclusions as to the genuineness and sufficiency of the petition and notice hereinbefore provided for, reciting that a report regarding the proposed district has been made by the state engineer and is on file with the other records of the board, and describing the boundaries of the proposed district as defined and established by said board. Said order shall be entered in full upon the minutes of said board. At said final hearing no evidence shall be heard against the genuineness or sufficiency of said petition or notice unless it shall be shown to the satisfaction of said board that new evidence which, if uncontradicted, would disprove the genuineness or sufficiency of said petition or notice has been discovered since said board adopted the resolution declaring that said petition and notice complied with all the requirements of this act. In case any new evidence is admitted, full opportunity shall be given for the introduction of evidence in rebuttal thereof. (1913.)

Section 4. A finding of the board of supervisors in favor of the genuineness and sufficiency of the petition and notice shall be final and conclusive against all persons except the State of California upon suit commenced by the attorney general. Any such suit must be commenced within one year after the order of the board of supervisors declaring such

district organized as herein provided, and ot otherwise. (1911, extra session.)

Section 5. If, on the said final hearing, the boundaries of the proposed district are defined and established, said board shall make an order dividing said district into five divisions, as nearly equal in size as may be practicable, which shall be numbered first, second, third, fourth and fifth, and one director shall be elected for each division by the electors thereof; provided, that if so requested in said petition, the board may order that there shall be only three divisions in said district, and that only three directors be elected, or that they be elected for the district at large.

Election on Organization.

Section 6. Said board of supervisors shall then give notice of an election to be held in such proposed district, for the purpose of determining whether or not the same shall be organized under the provisions of this act. Such notice shall describe the boundaries so established, and shall designate a name for the proposed district, and said notice shall be published for at least three weeks previous to such election, in a newspaper published within the county in which the petition for the organization of the proposed district was presented; and if any portion of such proposed district is within another county or counties, then such notice shall be published for the same length of time in a newspaper published in each of said counties. Such notice shall require the electors to cast ballots, which shall contain the words "Irrigation District—Yes," or "Irrigation District—No," or words equivalent thereto, and also the names of persons to be voted for at said election. For the purposes of said election the board of supervisors must establish a convenient number of election precincts in said proposed district, and define the boundaries of the same. Such election shall be conducted as nearly as practicable in accordance with the general election laws of the state, but no particular form of ballot shall be required.

Section 7. At such election there shall be elected a board of directors, and an assessor, tax collector, and treasurer; provided, that where a consolidation of officers as hereinafter provided for is deemed advisable in the organization of a district, the petitioners may request in their petition for organization such consolidation, and the board of supervisors calling the election shall in its order therefor announce such consolidation, and then only one person shall be elected to fill the several offices so consolidated.

Section 8. No person shall be entitled to vote at any election held under the provisions of this act unless he possesses all the qualifications required of electors under the general election laws of the state.

Section 9. The board of supervisors shall meet on the second Monday succeeding such election, and shall proceed to canvass the votes cast thereat, and if upon such canvass it appears that at least two-thirds of all the votes cast are "Irrigation District—Yes," said board shall, by an order entered on its minutes, declare the territory duly organized as an irrigation district, under the name theretofore designated, and shall declare the persons receiving respectively the highest number of votes at said election to be duly elected.

Section 10. Said board shall then cause a copy of such order, duly certified, to be immediately filed for record in the

office of the county recorder of any county in which any portion of the lands embraced in such district are situated, and must also immediately forward a copy thereof to the clerk of the board of supervisors of each of said last-mentioned counties, and no board of supervisors of any county in which any portion of the lands embraced in such district are situated shall, after the date of the organization thereof, allow another district to be formed including any portion of said lands, without the consent of the board of directors of the district in which they are situated. From and after such filing, the organization of such district shall be complete.

Section 11. Such election, on organization, may be contested by any person owning property within the proposed district liable to assessment. The directors elected at such election shall be made parties defendant. Such contest shall be brought in the superior court of the county where the petition for organization is filed; provided, that if more than one contest be pending, they shall be consolidated and tried together. The court having jurisdiction shall speedily try such contest, and determine, upon the hearing, whether the election was fairly conducted and in substantial compliance with the requirements of this act, and enter its judgment accordingly. Such contest must be brought within twenty days after the canvass of the vote and declaration of the result by the board of supervisors. The right of appeal is hereby given to either party to the record within thirty days from entry of judgment. The appeal must be heard and determined by the supreme court within sixty days from the time of filing the notice of appeal.

Section 12. The officers elected at the election hereinbefore provided for shall immediately enter upon their duties as such, upon qualifying in the manner for such officers herein provided. Said officers shall hold office respectively until their successors are elected and qualified.

Organization and Classification of Directors.

Section 13. The directors of any district created after the passage of this act, on the first Tuesday after their election, after they shall have qualified, shall meet and classify themselves by lot into two classes, as nearly equal in number as possible, and the term of office of the class having the greater number shall expire at the next general February election in this act provided for; and the term of office of the class having the lesser number shall terminate at the next general February election thereafter. After such classification, said directors shall organize as a board, shall elect a president from their number, and appoint a secretary, who shall each hold office during the pleasure of the board. The salary of the secretary and the amount of the bond to be given by him for the faithful performance of his duties shall be fixed by the board of directors.

Meetings.

Section 14. The board of directors shall hold a regular monthly meeting at their office upon such time as they shall fix by a resolution duly entered upon their minutes, and when the time for such monthly meeting has been fixed it can not again be changed for twelve months, and it can only be changed upon resolution, passed at least two months prior to the time such change shall take effect, and upon publication in a newspaper of general circulation in the county for at least one week prior to such change.

Such special meetings also may be held as may be required for the proper transaction of the business; provided, that all special meetings must be ordered by a majority of the board. The order must be entered of record, and five days' notice thereof must, by the secretary, be given to each member not joining in the order. The order must specify the business to be transacted, and no other business than that specified must be transacted at such special meeting.

All meetings of the board must be public, and three members shall constitute a quorum for the transaction of business; provided, however, that when the board consists of three members only, then in such case two shall constitute a quorum for the transaction of business, but on all questions requiring a vote there shall be a concurrence of at least the number constituting a quorum. All records of the board shall be open to public inspection during business hours.

The board of directors at their regular monthly meeting in January of each year shall render and immediately thereafter cause to be published a verified statement of the financial condition of the district, showing particularly the receipts and disbursements of the last preceding year, together with the source of such receipts and purpose of such disbursements. Said publications shall be made at least once a week for two weeks, in some newspaper published in the county where the office of the board of directors of such district is situated. Whenever any act is required to be done or proceeding taken by this act, or the acts supplemental or amendatory thereto, on the first Tuesday in any month, such act may be done or proceeding had upon the time specified in the resolution, hereinbefore referred to, as the time for the regular monthly meeting of such board; provided, also, that when the time of meeting other than the first Tuesday in the month has been specified, thereafter the newly elected directors shall meet and organize as a board upon the regular time fixed for the monthly meeting in March.

Powers and Duties of Officers.

Section 15. The board of directors shall have the power and it shall be their duty, to manage and conduct the business affairs of the district; make and execute all necessary contracts; employ and appoint such agents, officers, and employes as may be required, and prescribe their duties. The board and its agents and employes shall have the right to enter upon any land to make surveys, and may locate the necessary irrigation works and the line for any canal or canals, and the necessary branches for the same, on any lands which may be deemed best for such location. Said board shall also have the right to acquire, by purchase, lease, contract, condemnation, or other legal means, all lands and waters, and water rights, and other property necessary for the construction, use, supply, maintenance, repair and improvements of said canal, or canals, and works, including canals and works constructed and being constructed by private owners, lands for reservoirs for the storage of needful waters, and all necessary appurtenances, and also where necessary or convenient to said ends to acquire and hold the stock of other corporations owning waters, canals, water works, franchises, concessions or rights. But no purchase or lease of any waters, or water rights, or canals, or reservoirs, or reservoir sites, or irrigation works, or other property of any nature or kind, or stock in any other corporation, for any price, aggregate rental or consideration, in excess of ten thousand dollars, shall be final or binding on the district, nor shall the purchase price, rental or consideration, or any part thereof, be paid or rendered until a petition of a majority of the holders

of title, or evidence of title, and of possessory rights as aforesaid, to lands within the district, such holders of title, or evidence of title, and of possessory rights, representing a majority in value of said land, according to the last equalized assessment roll of the district, if such has theretofore been made, and if such has not been made, then according to the equalized county assessment roll covering lands of such district, shall have been filed with the board and an order of the board made thereon confirming such purchase. Said board may also construct the necessary dams, reservoirs, and works for the collection of water for said district, and do any and every lawful act necessary to be done, that sufficient water may be furnished to each land owner in said district for irrigation and domestic purposes. The said board is hereby authorized and empowered to take conveyances, leases, contracts or other assurances for all property acquired by it under the provisions of this act, in the name of such irrigation district, to and for the uses and purposes herein expressed, and to institute and maintain any and all actions and proceedings, suits at law or in equity necessary or proper in order to fully carry out the provisions of this act, or to enforce, maintain, protect or preserve any and all rights, privileges and immunities created by this act, or acquired in pursuance thereof. And in all courts, actions, suits or proceedings the said board may sue, appear and defend in person or by attorneys, and in the name of such irrigation district. It shall be the duty of said board to establish equitable by-laws, rules and regulations for the distribution and use of water among the owners of said lands, which must be printed in convenient form for distribution in the district. Said board shall have power generally to perform all such acts as shall be necessary to fully carry out the purposes of this act. (1911.)

Change of Boundaries.

Section 15½. The board of directors, when they deem it advisable for the best interests of the district, and the convenience of the electors thereof, may at any time, but not less than sixty days before an election to be held in the district, change the boundaries of the divisions and election precincts of the district; provided, such changes shall be made to keep each division as nearly equal in area and population as may be practicable. Such change of boundaries of the divisions must be shown on the minutes of the board. The board of directors of any irrigation district now or that may hereafter be organized in the state, shall also have the power, and such board is hereby vested with the authority, to lease the system of canals and works in the district, or any parts thereof, whenever such leasing may be for the benefit of the district; provided, that when the directors of any irrigation district contemplate the leasing of the canals and works of such district, they shall give notice of such contemplation by publishing the same in some newspaper published in the county in which such irrigation district lies, at least three weeks prior to the making of any lease, and such lease shall be made to the highest bidder. But such board shall have the right to reject any and all bids. Such lease shall in no way interfere with any rights that may have been established by law, at the time such lease is made; and further provided, that the board of directors shall require a good and sufficient bond to secure faithful performance of the lease by the lessees. (1911.)

Condemnation.

Section 16. In case of condemnation proceedings, the board of directors shall proceed, in the name of the district, under

the provisions of title seven, part three, of the code of civil procedure.

Use of Water.

Section 17. The use of all water required for the irrigation of the lands of any district formed under the provisions of this act, or the act of which this is supplementary or amendatory, and for domestic and other incidental and beneficial uses, within such district, together with the rights of way for canals and ditches, sites for reservoirs, and all other property required in fully carrying out the provisions of this act, is hereby declared to be a public use, subject to the regulation and control of the state, in the manner prescribed by law. (1911.)

Section 18. It is hereby expressly provided that all waters distributed for irrigation purposes shall be apportioned ratably to each land owner upon the basis of the ratio which the last assessment of such owner for district purposes within said district bears to the whole sum assessed upon the district; provided, that any land owner may assign the right to the whole or any portion of the waters so apportioned to him.

General Election.

Section 19. An election shall be held in each irrigation district on the first Wednesday in February, eighteen hundred and ninety-nine, and on the first Wednesday in February in each second year thereafter, at which an assessor, a collector, and a treasurer, and directors for the district shall be elected. The person receiving the highest number of votes for any office to be filled at such election shall be elected thereto. The assessor, collector, and treasurer shall each hold office from the first Tuesday in March next after, for two years, and until his successor is elected and qualified. Within ten days after receiving their certificates of election, hereinafter provided for, said officers shall take and subscribe the official oath and file the same in the office of the board of directors, and execute the bond hereinafter provided for. The assessor shall execute an official bond in the sum of five thousand dollars, and the collector an official bond in the sum of twenty thousand dollars, and the district treasurer an official bond in the sum of fifty thousand dollars; each of said bonds to be approved by the board of directors; provided, that the board of directors may, if it shall be deemed advisable, fix the bonds of the treasurer and collector, respectively, to suit the conditions of the district, the maximum amount of the treasurer's bond not to exceed fifty thousand dollars, and the minimum amount thereof not to be less than ten thousand dollars; and the maximum amount of the collector's bond not to exceed twenty thousand dollars, and the minimum amount thereof not to be less than five thousand dollars. Each member of said board of directors shall execute an official bond in the sum of five thousand dollars, which said bonds shall be approved by the judge of the superior court of said county where such organization was effected, and shall be recorded in the office of the county recorder thereof, and filed with the secretary of said board. All official bonds herein provided for shall be in the form prescribed by law for the official bonds of county officers.

Organization of Board.

Section 20. On the first Tuesday in March next following their election, the directors who shall have been elected at the general February election, shall meet and organize as a board, elect a president and appoint a secretary, who shall each hold

office during the pleasure of the board. And the directors of districts now organized, who shall have been elected at the general February election of eighteen hundred and ninety-nine, shall, on the first Tuesday in March next thereafter, when they meet to organize, first classify themselves by lot into two classes as nearly equal in number as possible. And the term of office of the class having the greater number shall be two years; and the term of office of the lesser number shall be four years. The full term of office of directors is hereby fixed at four years.

Notice of Election.

Section 21. Fifteen days before any election held under this act, subsequent to the organization of any district, the secretary of the board of directors shall cause notices to be posted in three public places in each election precinct, of the time and place of holding the election, and shall also post a general notice of the same in the office of said board, which shall be established and kept at some fixed place, to be determined by said board, specifying the polling places of each precinct. Prior to the time for posting the notices, the board must appoint for each precinct, from the electors thereof, one inspector and two judges, who shall constitute a board of election for such precinct. If the board fail to appoint a board of election, or the members appointed do not attend at the opening of the polls on the morning of election, the electors of the precinct present at that hour may appoint the board, or supply the place of an absent member thereof. The board of directors must, in its order appointing the board of election, designate the house or place within the precinct where the election must be held.

Conduct of Elections.

Section 22. The inspector is chairman of the election board and may administer all oaths required in the process of an election; and appoint judges and clerks, if, during the progress of the election, any judge or clerk cease to act. Any member of the board of election, or any clerk thereof, may administer and certify oaths required to be administered during the progress of an election. The board of election of each precinct, must, before opening the polls, appoint two persons to act as clerks of the election. Before opening the polls, each member of the board and each clerk must take and subscribe an oath to faithfully perform the duties imposed upon them by law. Any elector of the precinct may administer and certify such oath. The polls must be opened at 8 a.m. on the morning of the election, and be kept open until 4 p.m., when the same must be closed.

Section 22a. The ballot used at the election shall be provided by the board of directors, and one of the clerks of election shall deliver, to each of the electors, one of the ballots so provided. The ballots shall have printed on them the names of all candidates whose names have been filed as provided in this act, with a voting square behind each name. The names shall be arranged in groups, alphabetically, under the designation of the office for which each person named is a candidate. When more than one person is to be elected for an office of the same title, the words "Vote for.....(inserting the proper number)" shall be printed under the title of the office. Each elector shall stamp a cross, with a rubber stamp to be provided by the board of directors, in the square behind the name of each candidate he wishes to vote for.

Section 22b. Not less than ten days before the election, any ten or more electors in the district may file with the board of directors a petition, requesting that certain persons, specified in such petition, be placed on the ballot as candidates for the office named in the petition. The names proposed by the various petitions so filed, and no others, shall be printed on the ballots. But there shall be sufficient blank spaces left in which electors may write other names if they so desire. The petitions shall be preserved in the office of the secretary of the district.

Section 23. Voting may commence as soon as the polls are opened, and may be continued during all the time the polls remain opened, and shall be conducted, as nearly as practicable, in accordance with the provisions of the general election laws of this state. As soon as all the votes are counted, a certificate shall be drawn up on each of the papers containing the poll-list and tallies, or attached thereto, stating the number of votes each one voted for has received, and designating the office to fill which he was voted for, which number shall be written in figures and in words at full length. Each certificate shall be signed by the clerk, judge, and the inspector. One of said certificates, with the poll-list and the tally paper to which it is attached, shall be retained by the inspector, and preserved by him at least six months. The ballots shall be strung upon a cord or thread by the inspector, during the counting thereof, in the order in which they are entered upon the tally list by the clerks; and said ballots, together with the other of said certificates, with the poll-list and tally paper to which it is attached, shall be sealed by the inspector in the presence of the judges and clerks, and indorsed "Election Returns of (naming the precinct) Precinct," and be directed to the secretary of the board of directors, and shall be immediately delivered by the inspector, or by some other safe and responsible carrier designated by said inspector, to said secretary, and the ballots shall be kept unopened for at least six months; and if any person be of the opinion that the vote of any precinct has not been correctly counted, he may appear on the day appointed for the board of directors to open and canvass the returns, and demand a recount of the vote of the precinct that is so claimed to have been incorrectly counted.

Section 24. No list, tally paper, or certificate returned from any election, shall be set aside or rejected for want of form, if it can be satisfactorily understood. The board of directors must meet at its usual place of meeting on the first Monday after each election to canvass the returns. If, at the time of meeting, the returns from each precinct in the district in which the polls were opened have been received, the board of directors must then and there proceed to canvass the returns; but if all the returns have not been received, the canvass must be postponed from day to day until all the returns have been received, or until six postponements have been had. The canvass must be made in public and by opening the returns and estimating the vote of the district for each person voted for, and declaring the result thereof.

Section 25. The secretary of the board of directors must, as soon as the result is declared, enter in the records of such board a statement of such result, which statement must show: (a) The whole number of votes cast in the district, and in each division of the district; (b) the names of the persons voted for; (c) the office to fill which each person was voted for; (d) the number of votes given in each precinct to each of such persons; (e) the number of votes given in each division for the office of director, and the number of votes given in the district for the

offices of assessor, collector, and treasurer. The board of directors must declare elected the persons having the highest number of votes given for each office. The secretary must immediately make out and deliver to such person a certificate of election, signed by him, and authenticated with the seal of the board.

In case of a vacancy in the office of assessor, collector, or treasurer, the vacancy shall be filled by appointment of the board of directors; provided, that if said board of directors shall neglect or refuse to make such appointment within a period of forty days, then the board of supervisors of the county wherein the office of said board of directors is situated shall make such appointment. In case of a vacancy in the office of director, the vacancy shall be filled by appointment by the board of supervisors of the county where the office of such board of directors is situated, from the division in which the vacancy occurred. An officer appointed as above provided shall hold his office until the next regular election for said district, and until his successor is elected and qualified.

Section 26. A director shall be a resident and freeholder of the irrigation district, but not necessarily of the division for which he is elected.

Section 27. The board of directors may, in its discretion, consolidate any two or more of the offices of assessor, collector, and treasurer. The order of consolidation must be made at least thirty days prior to general election of the district, and shall take effect at the next succeeding election; provided, that the board of directors may, at least thirty days before a general election of the district, where the offices have been consolidated, segregate the same, each office to be filled at such election.

Section 28. In any district the board of directors thereof may, upon a presentation of the petition therefor, by a majority of the holders of title, or evidence of title, of said district. evidenced as above provided, order that on and after the next ensuing general election for the district, there shall be either three or five directors, as said board may order, and they shall be elected by the district at large, or by divisions, as so petitioned and ordered; and after such order such directors shall be so elected.

Section 28½, relative to the recall of officers, is found at page 135, statutes of 1911, special session. It is of doubtful constitutionality and is, therefore, omitted.

Title to and Sale of Property.

Section 29. The legal title to all property acquired under the provisions of this act shall immediately and by operation of law vest in such irrigation district, and shall be held by such district, in trust for, and is hereby dedicated and set apart to the uses and purposes set forth in this act. And said board is hereby authorized and empowered to hold, use, acquire, manage, occupy and possess said property, as herein provided. The board of directors may determine by resolution duly entered upon their minutes that any property, real or personal, held by such irrigation district is no longer necessary to be retained for the uses and purposes thereof, and may thereafter sell such property; and a conveyance of any property held by an irrigation district, executed by the president and secretary thereof, in accordance with a resolution of the board of directors of each district, when sold for a valuable consideration, shall convey good title to the property so conveyed.

Issuance of Bonds.

Section 30. For the purpose of constructing necessary irrigating canals and works, and acquiring the necessary property and rights therefor, and for the purpose of acquiring waters, water rights and other property necessary for the purposes of said district, and otherwise carrying out the provisions of this act, the board of directors of any such district must, as soon after such district has been organized as may be practicable, and also whenever thereafter the construction fund has been exhausted by expenditures herein authorized therefrom and it is necessary to raise additional money for said purposes, estimate and determine the amount of money necessary to be raised. For the purpose of ascertaining the amount of money necessary to be raised for such purposes, or any of them, said board shall cause such surveys, examinations, drawings and plans to be made as shall furnish the proper basis for the said estimate. All such surveys, examinations, drawings and plans, and the estimate of cost based thereon shall be made under the direction of a competent irrigation engineer and shall be certified by him. Said board shall then submit a copy of the said engineer's report to the state engineer, who shall forthwith proceed to examine said report and any data in his possession or in the possession of the district and to make such additional surveys and examination as he may deem proper or practicable, and within ninety days from the time of receiving said copy of said report shall make to the board of directors of said district a report, which shall contain such matters as in the judgment of the state engineer may be desirable; provided, that it shall state his conclusions as to the supply of water available for the use of the district and the feasibility of the project for which the proposed bonds are to be issued. After receiving said report, said board of directors, if it shall be convinced and shall declare by resolution that the supply of water available for the use of the district is sufficient for the project for which the proposed bonds are to be issued, if said issue, or any part thereof, is to be used for the acquisition or construction of irrigation works, and that the said project is feasible, shall make an order determining the amount of bonds that should be issued in order to raise the amount of money needed for the purpose or purposes for which said bonds are desired. And thereafter said board, when petitioned by a majority of the holders of title, or evidence of title, and of possessory rights to lands within the district, such holders of title, or evidence of title, and of such possessory rights, representing a majority in value of said lands according to the equalized assessment roll of the district, if such has theretofore been made, and, if such has not been made, then according to the equalized county assessment roll covering the lands in such district, shall immediately call a special election, at which shall be submitted to the electors of such district, possessing the qualifications prescribed by this act, the question whether or not the bonds of said district in the amount as set forth in said petition shall be issued. Notice of such election must be given by posting notices in three public places in each election precinct in said district for at least twenty days and also by publication of such notice in some newspaper published in the county where the office of the board of directors of such district is required to be kept, once a week for at least three successive weeks. Such notices must specify the time of holding the election, the amount of bonds proposed to be issued; and said election must be held and the result thereof determined and declared in all respects as nearly as practicable in conformity with the provisions of this act governing the election of officers; provided,

that no informalities in conducting such an election shall invalidate the same if the election shall have been otherwise fairly conducted. At said election questions as to the issuance of bonds may be submitted separately on the same ballot if estimates of the cost of the respective projects have been made and the state engineer has reported thereon and the aforesaid petition has requested that said questions be so submitted and the respective propositions have been stated in the notices of the election. At such election the ballots shall contain a statement of the proposition or propositions to be voted on, including the amount of bonds proposed to be issued for each purpose. Each proposition shall be followed by the words "Yes" and "No," on separate lines, with a small enclosed space after each of said words. The electors shall vote for or against any proposition by stamping a cross (X) in the voting space after the word "Yes" or "No" respectively. On the ballot shall be printed the following under the heading "Instructions to voters": "To vote for a proposition, stamp a cross (X) in the voting space after the word 'Yes' following the proposition. To vote against a proposition, stamp a cross (X) in the voting space after the word 'No' following the proposition." If a majority of the votes cast for and against any proposition are for "Yes," the board of directors shall cause bonds in the amount specified in such proposition to be issued; if a majority of the votes cast for and against any proposition are for "No," the result of the vote on such proposition shall be so declared and entered of record. Whenever thereafter a petition of the character hereinbefore provided for in this section is presented to the board, it shall so declare of record in its minutes and shall thereupon submit such questions to said electors in the same manner and with like effect as at such previous election. (1913.)

Section 31. All bonds issued under the provisions of this act shall be payable in gold coin of the United States, in twenty series, as follows, to-wit: At the expiration of twenty-one years from the date of any issue of said bonds, two per centum of the whole amount of such issue; at the expiration of twenty-two years from said date, two per centum of the whole amount of such issue; at the expiration of twenty-three years from said date, three per centum of the whole amount of such issue; at the expiration of twenty-four years from said date, three per centum of the whole amount of such issue; at the expiration of twenty-five years from said date, four per centum of the whole amount of such issue; at the expiration of twenty-six years from said date, four per centum of the whole amount of such issue; at the expiration of twenty-seven years from said date, four per centum of the whole amount of such issue; at the expiration of twenty-eight years from said date, four per centum of the whole amount of such issue; at the expiration of twenty-nine years from said date, five per centum of the whole amount of such issue; at the expiration of thirty years from said date, five per centum of the whole amount of such issue; at the expiration of thirty-one years from said date, five per centum of the whole amount of such issue; at the expiration of thirty-two years from said date, five per centum of the whole amount of such issue; at the expiration of thirty-three years from said date, six per centum of the whole amount of such issue; at the expiration of thirty-four years from said date, six per centum of the whole amount of such issue; at the expiration of thirty-five years from said date, six per centum of the whole amount of such issue; at the expiration of thirty-six years from said date, six per centum of the whole amount of such issue; at the expiration of thirty-seven years from said date, seven per centum of the whole amount of such issue; at the expiration of thirty-

eight years from said date, seven per centum of the whole amount of such issue; at the expiration of thirty-nine years from said date, eight per centum of the whole amount of such issue; at the expiration of forty years from said date, eight per centum of the whole amount of such issue; provided, that the bonds of any issue may be made payable at the end of shorter periods than are specified herein and the number of series in any issue may be less than twenty, if the number of series in the proposed issue and the proposed periods at the end of which the respective series shall be payable are specified in the petition and in the notices of the election provided for in section 30 of this act. While the foregoing several enumerated percentages are of the entire amount of the bond issue, each bond must be made payable at a given time for its entire amount and not for a percentage. The date of issue of any bond authorized under this act shall be deemed to be the apparent date of issue of the said bonds appearing upon the face thereof, which date shall be subsequent to the date of the bond election authorizing said bonds and prior to the date of actual delivery of said bonds to the purchasers thereof. Said bonds shall bear interest at a rate to be determined by the board of directors of the district issuing them, but not exceeding six per cent per annum payable semi-annually on the first day of January and the first day of July of each year. Principal and interest shall be payable at the place designated therein. Said bonds shall be each of the denomination of not less than one hundred dollars nor more than one thousand dollars, as the board of directors may determine; shall be negotiable in form, signed by the president and secretary of said board of directors, and the seal of the board shall be affixed thereto. Each issue shall be numbered consecutively as issued, and bonds of each issue shall be numbered consecutively and bear date at the time of their issue. Coupons for the interest shall be attached to each bond, signed by the secretary. Said bonds shall express on their face that they were issued by authority of this act, stating its title and date of approval, and also stating the number of the issue of which such bonds are a part. The secretary shall keep a record of the bonds sold, their number, the date of sale, the price received and the name of the purchaser. The provision of this section defining what shall constitute the date of issue of bonds shall apply to any and all bonds issued in pursuance of this act. (1913.)

Section 32. The board may sell said bonds from time to time in such quantities as may be necessary and most advantageous to raise money for the construction of said canals and works, the acquisition of said property and rights, or the acquisition of any water or water rights, and otherwise to fully carry out the objects and purposes of this act. Before making any sale the board shall, at a meeting, by resolution, declare its intention to sell a specified amount of the bonds, and the day and hour and place of such sale, and shall cause such resolution to be entered in the minutes, and notice of the sale to be given, by publication thereof at least three weeks in some newspaper published in the county where the office of the board of directors is located and in any other newspaper at its discretion. The notice shall state that sealed proposals will be received by the board at their office, for the purchase of bonds, till the day and hour named in the resolution. At the time appointed the board shall open the proposals and award the purchase of the bonds or any portion or portions thereof to the highest responsible bidder or bidders; provided, however, that they may reject any or all bids. (1913.)

Section 32½. If any irrigation district bonds have been

authorized before the time when this section shall go into effect but have not been sold and the board of directors of said district deems it desirable that said board be authorized to sell said bonds for less than the par value thereof, said board may call a special election to submit to the voters of the district said proposition. Such election shall be held and notice thereof shall be given in the same manner as is provided in the case of special elections to authorize the issuance of bonds in irrigation districts. The proposition shall be stated in substantially the following form: "Shall the board of directors of..... (insert the name) irrigation district be authorized to sell bonds of the district for less than the par value thereof?" followed by the words "Yes" and "No," as provided in section 30 hereof. If at least two-thirds of the legal votes cast at such election are for "Yes," then the board of directors may sell any bonds authorized by said district before this section shall take effect to the highest responsible bidder or bidders, as is provided in the foregoing section. If less than two-thirds of the legal votes cast at such election shall be for "Yes," the result shall be entered of record. (1913.)

Section 33. Said bonds, and the interest thereon, shall be paid by revenue derived from an annual assessment upon the real property of the district; and all the real property in the district shall be and remain liable to be assessed for such payments as hereinafter provided.

Section 34. In case the money raised by the sale of bonds issued be insufficient, or in case the bonds be unavailable for the completion of the plan of canal and works adopted, and the acquisition of the necessary property, waters and water rights therefor, and additional bonds be not voted, it shall be the duty of the board of directors to provide for the completion of said plan, and the acquisition of such necessary property, waters and water rights, by levy of assessments therefor; provided, however, that such levy of assessments shall not be made except first an estimate of the amount required for such purposes has been made by said board, and the question as to the making of said levy submitted to a vote of the electors of the district. Before such question is submitted, the order of submission shall be entered in the minutes of the board, stating the amount to be levied and the purpose therefor, and if submitted at a special election, said order shall, in addition, fix the day of election. Notice of such election must be given by posting notices in three public places in each election precinct in said district for at least twenty days, and also by publication of such notice in some newspaper published in the county where the office of the board of directors of such district is required to be kept once a week for at least three successive weeks. Such notices must specify the time of holding the election, and the amount of assessment proposed to be levied. Said election must be held and the result thereof determined and declared in all respects as nearly as practicable in conformity with the provisions of this act governing the election of officers; provided, that no informalities in conducting such an election shall invalidate the same, if the election shall have been otherwise fairly conducted. At such election the ballots shall contain the words "Assessment—Yes" or "Assessment—No," or words equivalent thereto. If a majority of the votes cast are "Assessment—Yes," the board of directors shall cause an assessment in the amount named in the order of submission to be levied; if a majority of the votes cast are "Assessment—No," the result of such election shall be so declared and entered of record.

Duties of the Assessor.

Section 35. The assessor must, between the first Monday in March and the first Monday in June, in each year, assess all real estate in the district, to the persons who own, claim or have possession or control thereof, at its full cash value, as follows: He must prepare an assessment book, with appropriate headings, in which must be listed all such property within the district, in which must be specified, in separate columns, under the appropriate head: (1) the name of the person to whom the property is assessed. If the name is not known to the assessor, the property shall be assessed to "unknown owners"; (2) land by township, range, section or fractional section, and when such land is not a congressional division or subdivision, by metes and bonds, or other description sufficient to identify it, giving an estimate of the number of acres and locality; (3) city and town lots, naming the city or town, and the number and block, according to the system of numbering in such city or town; (4) the cash value of real estate, other than city or town lots; (5) the cash value of city and town lots; (6) the total value of all property assessed; (7) the total value of all property after equalization by the board of directors; (8) such other things as the board of directors may require. Improvements on any lands or town lots within such district, shall be exempt from taxation for any of the purposes mentioned in this act. Any property which may have escaped the payment of any assessment for any year, shall, in addition to the assessment for the then current year, be assessed for such year with the same effect and with the same penalties as are provided for in such current year. (The term improvements as used in this section includes trees, vines, alfalfa and all growing crops and all buildings and structures of whatever class, or description erected or being erected upon said lands or city or town lots.) Provided, that the provisions of this section relating to the exemption of improvements on any lands or town lots situated within the district shall be exempt from taxation, shall not apply in any district now organized unless said provision shall be approved by a vote of a majority of the resident holders of title to lands situated within the district and subject to taxation therein at a special election called for the purpose of making said provision herein applicable.

Section 36. The board of directors must allow the assessor as many deputies, to be appointed by him, as will, in the judgment of the board, enable him to complete the assessment within the time herein prescribed. The board must fix the compensation of such deputies, which shall be paid out of the treasury of the district. The compensation must not exceed five dollars per day for each deputy, for the time actually engaged, nor must any allowance be made but for work done between the first Monday in March and the first Monday in August in each year.

Section 37. On or before the first Monday in August in each year, the assessor must complete his assessment book, and deliver it to the secretary of the board, who must immediately give notice thereof, and of the time the board of directors, acting as a board of equalization, will meet to equalize assessments, by publication in a newspaper published in each of the counties comprising the district. The time fixed for the meeting shall not be less than twenty nor more than thirty days from the first publication of the notice; and in the meantime the assessment book must remain in the office of the secretary for the inspection of all persons interested.

Equalization of Assessment.

Section 38. Upon the day specified in the notice required by the preceding section for the meeting, the board of directors, which is hereby constituted a board of equalization for that purpose, shall meet and continue in session from time to time, as long as may be necessary, not to exceed ten days, exclusive of Sundays, to hear and determine such objections to the valuation and assessment as may come before them; and the board may change the valuation as may be just. The secretary of the board shall be present during its sessions, and note all changes made in the valuation of property, and in the names of persons whose property is assessed; and within ten days after the close of the session he shall have the total values, as finally equalized by the board, extended into columns and added.

Levy of and Collection of Assessments.

Section 39. The board of directors shall then, within fifteen days after the close of its session as a board of equalization, levy an assessment sufficient to raise the annual interest on the outstanding bonds, and in any year in which any bond shall fall due must increase such assessment to an amount sufficient to raise a sum sufficient to pay the principal of the outstanding bonds as they mature; also, sufficient to pay in full all sums due, or that shall become due from the district, before the time for levying the next annual assessment, on account of rentals or charges for lands, water or water rights acquired by said district under lease or contract; also, sufficient to pay in full the amount of any other contract or obligation of the district which shall have been reduced to judgment. The secretary of the board must compute and enter in a separate column of the assessment book the respective sums in dollars and cents to be paid as an assessment on the property therein enumerated. When collected, the assessment shall be paid into the district treasury and be apportioned to the several proper funds. In case of the neglect or refusal of the board of directors to cause such assessment and levies to be made as in this act provided, then the duly equalized assessment made by the county assessor of the county or each of the respective counties in which the district is situated shall be the basis of assessment for the district, and the board of supervisors of the county in which the office of the board of directors of said district is situated shall cause an assessment roll of said district to be prepared, and shall make the levy required by this act, in the same manner and with like effect as if the same had been made by said board of directors and all expenses incident thereto shall be borne by such district and may be collected by suit at law, which shall be commenced by the district attorney of the county whose board of supervisors caused said assessment roll to be prepared, unless the amount of such expenses shall be paid within sixty days from the time when proper demand shall have been made therefor. In case of the neglect or refusal of the collector or treasurer of any irrigation district to perform the duties imposed by law, then the tax collector and the treasurer of the county in which the office of the board of directors of such district is situated must respectively perform such duties and shall be accountable therefor upon their official bonds; but, in case any county tax collector shall collect any assessment for any irrigation district, he shall pay the same to the county treasurer, who shall place such money in a special fund to the credit of the district and shall disburse the same to the proper persons for the purposes for which such assessments have been levied and shall not pay any part thereof to the treasurer of said

district until said county treasurer shall be satisfied that all of the valid obligations for which such assessments were levied and for which payment has been demanded have been paid. It shall be the duty of the district attorney of each county in which the office of any irrigation district is located to ascertain each year whether the duties relating to the levying and collection of assessments, as in this act provided, have been performed, and, if he shall learn that the board of directors or any official of any such irrigation district has neglected or refused to perform any such duty, said district attorney shall so notify the board of supervisors or the county official required by this act to perform such duty in such case, and, unless such board of supervisors or such county official shall proceed to the performance of such duty within thirty days after the receipt of such notice, the district attorney shall take such action in court as may be necessary to compel the performance of such duty, and said district attorney shall give such notice to other officials, and shall take such action, as may be necessary to secure the performance in their proper sequence of the other duties relating to the levying and collection of assessments, as in this act provided; provided, that for the enforcement of the levying and collection of any assessment hereafter required to be levied and collected for the payment of any debt hereafter incurred, in case complaint shall be made to the attorney general of the state of California that the district attorney of any county has not performed any duty devolving upon him by the provisions of this section, or that he is not proceeding with due diligence or in the proper manner in the performance of any such duty, the attorney general shall make an investigation, and if it shall be found that such charge or charges are true, said attorney general shall take such measures as may be necessary to enforce the performance of the duties relating to the levying and collection of assessments, as in this act provided. In case, as the result of the neglect or refusal of any official or officials to perform any duty relating to the levying and collection of assessments, as in this act provided, it shall be impossible for such duty to be performed within the time required and such duty shall subsequently be performed, then the time within which all duties consequent upon the performance of such duty shall be performed shall be extended so as to allow the elapsing of the intervals required by this act to elapse between the performance of such duties, and the assessments herein provided for shall not become delinquent for at least thirty days after the first publication of the notice that such assessments are due and payable, as provided in section 41 of this act. In the event any land within said district subject to assessment for the purposes of the district has not been assessed by the county assessor or does not appear upon the county assessment roll adopted by said board of supervisors as the basis of assessment for the district, the land so omitted belonging to any person, association, corporation, or municipality shall be forthwith assessed by the county assessor upon an order of the board of supervisors and a description of the property so omitted shall be written in the roll prepared for the purpose of district assessments. In such case, before any assessment is levied, the board of supervisors must meet and equalize said assessment with that of the assessment of other lands in said district. The same notice shall be given by the board of supervisors of such meeting for the purpose of equalizing the assessment to be made as herein directed as is provided in this act to be given by the board of directors of an irrigation district when the said board is to meet for the purpose of equalizing assessments. All the powers and duties respecting the collection of all assessments on possession of, claim to, or rights to the

possession of land now provided in sections 3820, 3821, 3822, 3823, 3824, 3825 and 3829 of the Political Code, as regards county assessors shall apply, so far as applicable, to irrigation district assessors. (1913.)

Section 40. The assessment upon real property is a lien against the property assessed from and after the first Monday in March for any year, and the lien for the bonds of any issue shall be a preferred lien to that for any subsequent issue, and such lien is not removed until the assessments are paid, or the property sold for the payment thereof.

Section 41. On or before the first day of November, the secretary must deliver the assessment book to the collector of the district, who shall within twenty days publish a notice in a newspaper published in each county in which any portion of the district may lie, that said assessments are due and payable and will become delinquent at six o'clock p. m. on the last Monday of December next thereafter, and that unless paid prior thereto ten per cent will be added to the amount thereof, and also the time and place at which payment of assessments may be made, which notice shall be published for the period of two weeks. The collector must attend at the time and place specified in the notice to receive assessments, which must be paid in gold and silver coin; he must mark the date of payment of any assessment in the assessment book, opposite the name of the person paying, and give a receipt to such person, specifying the amount of the assessment and the amount paid, with the description of the property assessed. On the last Monday in December at six o'clock p. m. of each year, all unpaid assessments are delinquent and thereafter the collector must collect thereon, for the use of the district, an addition of ten per cent. (1913.)

Publication of Delinquent Notice.

Section 42. On or before the first day of February, the collector must publish the delinquent list, which must contain the names of the persons and a description of the property delinquent, and the amount of the assessments and costs due opposite each name and description. He must append to and publish with the delinquent list a notice that, unless the assessments delinquent, together with costs and percentage, are paid, the real property upon which such assessments are a lien will be sold at public auction. The publication must be made once a week for three successive weeks, in a newspaper published in the county in which the property delinquent is situated; provided, that if any property assessed to the same person or corporation shall lie in more than one county, then such publication may be made in any county in which any portion of such property may lie. The publication must designate the time and place of sale. The time of sale must not be less than twenty-one nor more than twenty-eight days from the first publication, and the place must be at some point designated by the collector, within the district; provided, however, that if there should occur any error in the publication of the sale of the delinquent property, which might invalidate a sale made thereunder, and such error is discovered prior to the sale thereunder the collector shall at once republish the sale of the property affected by such error, making such republication conform to the provisions of this law, and the time of sale designated in such republication must not be less than twenty-one nor more than twenty-eight days from the first republication; and the place of sale must be at some point designated by the collector within the district, and stated in such republication.

Sale for Delinquent Assessments.

Section 43. The collector must collect, in addition to the assessments due on the delinquent list, and ten per cent added, fifty cents on each lot, piece or tract of land separately assessed. On the day fixed for the sale, or some subsequent day to which he may have postponed it, of which he must give notice, the collector, between the hours of ten a. m. and three o'clock p. m., must commence the sale of the property advertised, commencing at the head of the list and continuing alphabetically, or in the numerical order of the lots or blocks, until completed. He may postpone the day of commencing the sales, or the sale, from day to day, but the sale must be completed within three weeks from the day first fixed; provided, that if any sale or sales shall be stayed by legal proceedings, the time of the continuance of such proceedings is not part of the time limited for making such sale or sales; and provided further, that in any district where the validity of any assessment shall be in litigation at the time this act shall take effect, the sale of any property, whether it be involved in such litigation or not, may be postponed for a time not to exceed four months. (1913.)

Section 44. The owner or person in possession of any real estate offered for sale for assessments due thereon may designate, in writing, to the collector, prior to the sale, what portion of the property he wishes sold, if less than the whole; but if the owner or possessor does not, then the collector may designate it and the person who will take the least quantity of the land, or in case an undivided interest is assessed, then the smallest portion of the interest, and pay the assessments and costs due, including two dollars for the duplicate certificate of sale, is the purchaser. If the purchaser does not pay the assessments and costs before ten o'clock a. m. the following day, the property on the next sale day must be resold for the assessments and costs. But in case there is no purchaser in good faith for the same on the first day that the property is offered for sale, then, when the property is offered thereafter for sale, and there is no purchaser in good faith for the same, the whole amount of the property assessed shall be struck off to the irrigation district within which such lands are situated, as the purchaser, and the duplicate certificate delivered to the treasurer of the district, and filed by him in his office. No charge shall be made for the duplicate certificate where the district is the purchaser, and, in such case, the collector shall make an entry "Sold to the District," and he shall be credited with the amount thereof in his settlement. An irrigation district as a purchaser at such sale, shall be entitled to the same rights as a private purchaser, and the title so acquired by the district, subject to the right of redemption herein provided, may be conveyed by deed, executed and acknowledged by the president and secretary of said board; provided, that authority to so convey must be conferred by resolution of the board entered on its minutes, fixing the price at which such sale may be made, and such conveyance shall not be made for a less sum than the reasonable market value of such property.

Section 45. After receiving the amount of assessments and costs, the collector must make out in duplicate a certificate, dated on the day of sale, stating (when known) the name of the person assessed, a description of the land sold, the amount paid therefor, that it was sold for assessments, giving the amount and year of the assessment, and specifying the time when the purchaser will be entitled to a deed. The certificate must be signed by the collector, and one copy delivered to the

purchaser, and the other filed in the office of the county recorder of the county in which the land is situated.

Section 46. The collector, before delivering any certificate, must, in a book enter a description of the land sold, corresponding with the description in the certificate, the date of the sale, purchasers' names, and amount paid, regularly number the description on the margin of the book, and put a corresponding number on each certificate. Such book must be open to public inspection, without fee, during office hours, when not in actual use. On filing the certificate with such county recorder, the lien of the assessments vests with the purchaser, and is only divested by the payment to him, or to the collector for his use, of the purchase money, and two per cent per month from the day of sale until redemption.

Redemption of Property Sold for Delinquent Assessments.

Section 47. A redemption of the property sold may be made by the owner, or any party in interest, within five years from the date of purchase, or at any time thereafter before a deed has been made and delivered. Redemption must be made in gold or silver coin, as provided for the collection of state and county taxes, and when made to the collector he must credit the amount paid to the person named in the certificate, and pay it, on demand, to the person or his assignees. In each report the collector makes to the board of directors, he must name the person entitled to redemption money, and the amount due each. On receiving the certificate of sale, the county recorder must file it and make an entry in a book similar to that required of the collector. On the presentation of the receipt of the person named in the certificate, or of the collector for his use, of the total amount of the redemption money, the recorder must mark the word "redeemed," the date, and by whom redeemed, on the certificate and on the margin of the book where the entry of the certificate is made. If the property is not redeemed within the time herein provided, the collector, or his successor in office, upon demand, must make to the purchaser, or his assignee, a deed of the property, reciting in the deed substantially the matters contained in the certificate, and that no person redeemed the property during the time allowed by law for its redemption; provided, that where property has been sold to the district it may be redeemed as herein provided, at any time before the district has disposed of the same. The collector shall receive from the purchaser, for the use of the district, two dollars for making such deed.

Section 47½. The five-year period herein prescribed for the redemption of properties sold for delinquent taxes shall not operate as a bar to the dissolution of any irrigation district. If any land has been sold for delinquent taxes of a district in process of dissolution, or in a district which has been dissolved and the time allowed for redemption has not expired, the owner of such property or any one in interest may redeem the same by paying the amount due thereon, computed as provided in section 46 of this act, to the county treasurer, who must issue his receipt therefor, and upon the presentation of such receipt the county recorder must cancel the certificate of sale in the manner required in the preceding section.

In the event any land has been sold for non-payment of taxes as herein provided, and no redemption has been made within five years from the date of purchase in any district which may have been dissolved before the expiration of said redemption period, then a deed for the property sold and

described in the certificate of sale must be made to the purchaser upon demand by the county treasurer of the county in which said irrigation district is or was situated. Such deed shall contain all the recitals of the certificate of sale, and in addition thereto, a recital that the district has been dissolved and a deed executed in pursuance of the authority given by this section. A deed so executed shall have the same force and effect as if executed by the collector of an irrigation district.

Section 48. The matter recited in the certificate of sale must be recited in the deed, and such deed duly acknowledged or proved is prima facie evidence that: (a) The property was assessed as required by law; (b) the property was equalized as required by law; (c) that the assessments were levied in accordance with law; (d) the assessments were not paid; (e) at a proper time and place the property was sold as prescribed by law, and by the proper officer; (f) the property was not redeemed; (g) the person who executed the deed was the proper officer.

Such deed duly acknowledged or proved is (except as against actual fraud) conclusive evidence of the regularity of all the proceedings from the assessment by the assessor, inclusive, up to the execution of the deed. The deed conveys to the grantee the absolute title to the lands described therein free of all incumbrances, except when the land is owned by the United States, or this state, in which case it is prima facie evidence of the right of possession.

Section 49. The assessment book or delinquent list, or a copy thereof, certified by the collector, showing unpaid assessments against any person, or property, is prima facie evidence of the assessment, the property assessed, the delinquency, the amount of assessments due and unpaid, and that all the forms of the law in relation to the assessment and levy of such assessments have been complied with.

Section 50. When land is sold for assessments correctly imposed, as the property of a particular person, no misnomer of the owner, or supposed owner, or other mistake relating to the ownership thereof, affects the sale, or renders it void, or voidable.

Section 51. On the first Monday in each month, the collector must settle with the secretary of the board for all moneys collected for assessments, and pay the same over to the treasurer; and within six days thereafter he must deliver to and file in the office of the secretary a statement under oath, showing: (a) An account of all his transactions and receipts since his last settlement; (b) that all money collected by him as collector has been paid. The collector shall also file in the office of the secretary, on said first Monday in each month, the receipt of the treasurer for the money so paid.

Redemption of Bonds and Payment of Interest.

Section 52. Upon the presentation of the coupons due, to the treasurer, he shall pay the same from the bond fund. Whenever said fund shall amount to the sum of ten thousand dollars in excess of an amount sufficient to meet the interest coupons due, the board of directors may direct the treasurer to pay such an amount of said bonds not due as the money in said fund will redeem, at the lowest value at which they may be offered for liquidation, after advertising in the manner hereinbefore provided for the sale of bonds, for sealed proposals for the redemption of said bonds. Said proposals shall be opened by

the board in open meeting, at a time to be named in the notice, and the lowest bid for said bonds must be accepted; provided, that no bond shall be redeemed at a rate above par. In case the bids are equal, the lowest numbered bond shall have the preference. In case none of the holders of said bonds shall desire to have the same redeemed, as herein provided for, said money shall be invested by the treasurer, under direction of the board, in United States bonds, or the bonds of the state, which shall be kept in said "bond fund," and may be used to redeem said district bonds whenever the holders thereof may desire.

Construction of Works.

Section 53. After adopting a plan for such canal or canals, storage reservoirs, and works, as in this act provided for, the board of directors shall give notice, by publication thereof not less than twenty days in one newspaper published in each of the counties composing the district (provided, a newspaper is published therein), and in such other newspapers as they may deem advisable, calling for bids for the construction of such work, or of any portion thereof; if less than the whole work is advertised, then the portion so advertised must be particularly described in such notice. Said notice shall set forth that plans and specifications can be seen at the office of the board, and that the board will receive sealed proposals therefor, and that the contract will be let to the lowest responsible bidder, stating the time and place for opening said proposals, which, at the time and place appointed, shall be opened in public; and as soon as convenient thereafter the board shall let said work, either in portions or as a whole, to the lowest responsible bidder; or they may reject any or all bids and readvertise for proposals, or may proceed to construct the work under their own superintendence. Contracts for the purchase of material shall be awarded to the lowest responsible bidder. Any person or persons to whom a contract may be awarded shall enter into a bond, with good and sufficient sureties, to be approved by the board, payable to said district for its use, for twenty-five per cent of the amount of the contract price, conditioned for the faithful performance of said contract. The work shall be done under the direction and to the satisfaction of the engineer, and be approved by the board.

Section 54. No claim shall be paid by the treasurer until allowed by the board, and only upon a warrant signed by the president, and countersigned by the secretary; provided, that the board may draw, from time to time, from the construction fund, and deposit in the county treasury of the county where the office of the board is situated any sum in excess of the sum of twenty-five thousand dollars. The county treasurer of said county is hereby authorized and required to receive and receipt for the same, and place the same to the credit of said district, and he shall be responsible upon his official bond for the safe-keeping and disbursement of the same, as in this act provided. He shall pay out the same, or any portion thereof, to the treasurer of the district only, and only upon the order of the board, signed by the president, and attested by the secretary. The said county treasurer shall report, in writing, on the second Monday in each month, the amount of money in the county treasury, the amount of receipts for the month preceding and the amount or amounts paid out; said report shall be verified and filed with the secretary of the board. The district treasurer shall also report to the board, in writing, on the first Monday in each month, the amount of money in the district treasury, the amount of receipts for the month preceding, and the amount

and items of expenditures, and said report shall be verified and filed with the secretary of the board.

Section 54½. During the construction of any work to be paid for out of the proceeds of the sale of any bonds of any irrigation district within this state, the secretary of the board of directors shall, within one week after each regular meeting of said board, forward to the state engineer copies of all reports made to said board as to the progress of said work and a statement of the amounts paid for the doing of any part of said work. Immediately after the publication of the statement of the financial condition of any irrigation district within this state, required by section 14 of this act to be made annually, the board of directors of said district shall cause a copy of said statement and a report stating the general condition of any works constructed or acquired by said district and whether or not the plan of irrigation adopted by the district is being successfully carried out and any other matters which the board may deem proper, to be forwarded to the state engineer, who shall examine said statement and report and make to said board such recommendations and comments as he may deem proper. The state engineer may at any time make or cause to be made an examination of the affairs of any irrigation district within this state or call upon the authorities of such district for such information as he may desire and make such report thereon as he may deem advisable. (1913.)

Tolls and Charges.

Section 55. The cost and expense of purchasing and acquiring property and constructing the works and improvements herein provided for, shall be wholly paid out of the construction fund; provided, however, that when any lands, waters, water rights or other property shall be acquired by the district by any lease or contract, under the terms of which the consideration or rental shall be payable in such installments that a like amount shall be payable in each year of the life of such lease or contract, then such rental or consideration shall be paid out of the funds derived from the levying of annual assessments, or from the collection of rates, tolls and charges fixed and collected as hereinafter provided for. For the purpose of defraying the expenses of the organization of the district, and of the care, operation, management, repair and improvement of such portions of such canal and works as are completed and in use, including salaries of officers and employes, and installments of rental or consideration accruing under any lease or contract as hereinabove in this section mentioned, the board may in lieu (either in part, or in whole) of levying assessments as herein provided for, fix rates of toll and charges, for irrigation and other public uses declared by this act and collect the same from all persons using said canal for irrigation and other purposes.

Section 56. The board of directors shall have power to construct the said works across any stream of water, water-course, street, avenue, highway, railway, canal, ditch, or flume which the route of said canal or canals may intersect or cross, in such manner as to afford security for life and property; but said board shall restore the same, when so crossed or intersected, to its former state as near as may be, or in a sufficient manner not to have impaired unnecessarily its usefulness; and every company whose railroad shall be intersected or crossed by said works shall unite with said board in forming said intersections and crossings, and grant the privileges aforesaid;

and if such railroad company and said board, or the owners and controllers of the said property, thing, or franchise so to be crossed, cannot agree upon the amount to be paid therefor, or the points or the manner of said crossings or intersections, the same shall be ascertained and determined in all respects as is herein provided in respect to the taking of land. The right of way is hereby given, dedicated, and set apart, to locate, construct, and maintain said works over and through any of the lands which are now or may be the property of this state; and also there is given, dedicated, and set apart, for the uses and purposes aforesaid, all waters and water rights belonging to this state within the district.

Governing Directors.

Section 57. The directors, when sitting as a board, or acting under the orders of the board, shall each receive not to exceed four dollars per day and ten cents per mile for each mile actually traveled from his place of residence to the office of the board, and actual and necessary expenses paid while engaged in official business under the order of the board. The board shall fix the compensation to be paid to all officers named in this act, to be paid out of the treasury of the district; provided, that said board shall, upon the petition of at least fifty, or a majority of the freeholders within such district, therefor, submit to the electors at any general election a schedule of salaries and fees to be paid hereunder. Such petition must be presented to the board not less than twenty days nor more than forty days prior to a general election, and the result of such election shall be determined and declared in all respects as other elections are determined and declared under this act.

Section 58. No director or any other officer named in this act shall in any manner be interested, directly or indirectly, in any contract awarded or to be awarded by the board, or in the profits to be derived therefrom; and for any violation of this provision, such officer shall be deemed guilty of a misdemeanor, and such conviction shall work a forfeiture of his office, and he shall be punished by a fine not exceeding five hundred dollars, or by imprisonment in the county jail not exceeding six months, or by both such fine and imprisonment.

Special Assessments.

Section 59. The board of directors may, at any time, when in their judgment it may be deemed advisable, call a special election and submit to the qualified electors of the district the question whether or not a special assessment shall be levied for the purpose of raising money to be applied to any of the purposes provided in this act. Such election must be called upon the notice prescribed, and the same shall be held and the result thereof determined and declared in all respects in conformity with the provisions of section 30 of this act. The notice must specify the amount of money proposed to be raised and the purpose for which it is intended to be used. At such elections the ballots shall contain the words "Assessment—Yes" or "Assessment—No." If two-thirds or more of the votes cast are "Assessment—Yes," the board shall, at the time of the annual levy hereunder, levy an assessment sufficient to raise the amount voted; provided, however, that an assessment of not to exceed two per centum of the value of the assessable property within the district may be levied in any one year without such vote by the adoption of a resolution by at least

four-fifths of the members of the board of directors, such amount not, however, to exceed the sum of seventy-five thousand (\$75,000) dollars; provided, further, that if a petition signed by qualified voters in the district equal in number to fifteen per centum of the votes cast at the last preceding general election in such district, shall, within thirty days after the board shall by resolution have provided for the levying of such assessment, be filed with such board petitioning that an election relative to the levying of such assessment be held, such assessment shall not be levied without the election provided for in this section; provided, further, however, that in case of an unexpected emergency by which the flow of water in the canal is interrupted, the amount of the indebtedness incurred in the repair of the works of said district, caused by such interruption, not to exceed in any one year forty thousand (\$40,000) dollars, may also, in addition to the assessments hereinbefore provided for, be levied by the adoption of a resolution by at least four-fifths of the members of the board of directors, at the time of the levying of the annual assessment provided for in this act, without the submission of the question of such levy to a vote, as in this section hereinbefore provided.

Rate of Assessment.

Section 60. The rate of assessments levied under the provisions of this act shall be ascertained by deducting fifteen per cent for anticipated delinquencies from the aggregate assessed value of the property in the district as it appears on the assessment roll for the current year, and then dividing the sum voted by the remainder of such aggregate assessed value. The assessment so levied shall be computed and entered on the assessment roll by the secretary of the board, and collected at the same time and in the same manner as other assessments provided for herein; and when collected shall be paid into the district treasury for the purposes specified in the notice of such special election.

Incurring Indebtedness.

Section 61. The board of directors or other officers of the district shall have no power to incur any debt or liability whatever, either by issuing bonds or otherwise, in excess of the express provisions of this act; and any debt or liability incurred in excess of such express provisions shall be and remain absolutely void, except that for the purposes of organization, or for any of the purposes of this act, the board of directors may, before the collection of the first assessment, incur indebtedness in such sum or sums as shall amount to two thousand dollars, or, if the district shall contain more than four thousand acres, to one-half as many dollars as there are acres of land in the district, and may cause warrants of the district to be issued therefor, bearing interest at seven per cent per annum; provided, however, that in no case shall the total amount of warrants authorized in this section exceed fifty thousand (\$50,000) dollars, and all such warrants must be made payable not later than the first day of January after the first assessment shall be levied in the district issuing such warrants; and provided further, that nothing contained in this section shall be construed as limiting the right of the board to enter into any contract or lease for any lands, waters, water rights or other property, as in this act provided for, and by such lease or contract to bind the district for the payment of the rental or consideration specified in such lease or contract; and provided, further, that any warrant of the district payable on demand, if presented to the treasurer for payment when

funds are not available for the payment thereof, shall thereafter draw interest at the rate of five per cent per annum until public notice is given that such funds are available. Upon the presentation of any such warrant for payment when funds of the district are not available to pay the same, the treasurer of the district shall indorse thereon the words, "Funds not available for payment," with the date of presentation, and shall sign his name thereto. He shall keep a record, showing the number and amount of each such warrant, the date of its issuance, the person in whose favor it was issued and the date of its presentation for payment. Whenever there is sufficient money in the treasury to pay all such outstanding warrants, or whenever the board of directors shall order that all such warrants presented for payment prior to a certain date be paid and there is sufficient money available for such payments, the treasurer shall give notice in some newspaper published in the district, or, if none is published therein, then in some newspaper published in the county in which the district or any portion thereof is situated, or, if none is published in such county, then the treasurer shall post such notice conspicuously in the place in which the board of directors of the district holds its regular meetings, stating that he is prepared to pay all warrants of the district for the payment of which funds were not available upon their original presentation, or all such warrants which were presented for payment prior to the date fixed by the board of directors, as the case may be, and no further description of the warrants entitled to payment shall be made in such notice. Upon the presentation of any warrant entitled to payment under the terms of such notice, the treasurer shall pay it, together with interest thereon at the rate of five per cent per annum from the date of its original presentation for payment to the date of the first publication or posting of the aforesaid notice, and all warrants for the payment of which funds are declared in said notice to be available shall cease to draw interest at the time of the first publication or posting of said notice. The treasurer shall enter in the record hereinbefore required to be kept the dates of the payment of all such warrants, the names of the persons to whom payments are made and the amount paid to each person. (1913.)

Governing the Apportionment of Water.

Section 62. In case the volume of water in any stream or river shall not be sufficient to supply the continual wants of the entire country through which it passes, and susceptible of irrigation therefrom, then it shall be the duty of the water commissioners, constituted as hereinafter provided, to apportion, in a just and equitable proportion, a certain amount of said water upon certain or alternate weekly days to different localities, as they may, in their judgment, think best for the interest of all parties concerned, and with due regard to the legal and equitable rights of all. Said water commissioners shall consist of the chairman of the board of directors of each of the districts affected.

Section 63. It shall be the duty of the board of directors to keep the water flowing through the ditches under their control to the full capacity of such ditches in times of high water.

Section 64. Navigation shall never in anywise be impaired by the operation of this act, nor shall any vested interest in or to any mining water rights or ditches, or in or to any water or water rights, or reservoirs or dams now used by the owners or possessors thereof in connection with any mining industry, or by persons purchasing or renting the use thereof, or in or

to any other property now used, directly or indirectly, in carrying on or promoting the mining industry, ever be affected by or taken under its provisions, save and except that rights of way may be acquired over the same.

Section 65. Nothing herein contained shall be deemed to authorize any person or persons to divert the waters of any river, creek, stream, canal, or ditch from its channel, to the detriment of any person or persons having any interest in such river, creek, stream, canal, or ditch, or the waters therein, unless previous compensation be ascertained and paid therefor, under the laws of this state authorizing the taking of private property for public uses.

Exemption from Taxation—Creation of Funds.

Section 66. The rights of way, ditches, flumes, pipe-lines, dams, water rights, reservoirs, and other property of like character, belonging to any irrigation district, shall not be taxed for state and county or municipal purposes.

Section 67. The following funds are hereby created and established, to which the moneys properly belonging shall be apportioned, to-wit: Bond Fund, Construction Fund, General Fund.

Confirmation Proceedings.

Section 68. The board of directors may, at any time after the issue of any bonds or the levy of any assessment herein provided for, bring an action in the superior court of the county wherein is located the office of such board, to determine the validity of any such bonds or such levy of assessments; such action shall be in the nature of a proceeding in rem, and jurisdiction of all parties interested may be had by publication of summons for at least once a week for three weeks in some paper of general circulation published in the county where the action is pending, such paper to be designated by the court having jurisdiction of the proceedings. Jurisdiction shall be complete within ten days after the full publication of such summons in the manner herein provided. Anyone interested may at any time before the expiration of said ten days appear and by proper proceedings contest the validity of such bonds or assessments. Such action shall be speedily tried and judgment rendered declaring such matter so contested either valid or invalid. Either party may have the right to appeal to the supreme court at any time within thirty days after the rendition of such judgment, which appeal must be heard and determined within three months from the time of taking such appeal.

Section 69. If no such proceeding shall have been brought by the board of directors, then, at any time within thirty days after the levy of any assessment or issue of any bonds under the provisions of this act, any district assessment-payer may bring an action in the superior court of the county where the office of the board of directors is located, to determine the validity of any such assessment or such bonds. The board of directors shall be made parties defendant, and service of summons shall be made on the members of the board personally. Said board shall have the right to appear and contest such action. Such action shall be speedily tried, with the right of appeal to either party, within the time and manner herein provided for the bringing of actions by the board to determine such matters. Such appeal shall be heard and determined in the manner and within the time therein provided.

Section 70. If more than one action shall be pending at the same time concerning similar contests in this act provided for, they shall be consolidated and tried together.

Section 71. The court hearing any of the contests herein provided for, in inquiring into the regularity, legality, or correctness of such proceedings, must disregard any error, irregularity, or omission which does not affect the substantial rights of the parties to said action or proceeding. The rules of pleading and practice provided by the code of civil procedure, which are not inconsistent with the provisions of this act, are applicable to all actions or proceedings herein provided for. The motion for a new trial of any such action or proceeding must be heard and determined within ten days from the filing of the notice of intention. The costs on any hearing or contest herein provided for, may be allowed and apportioned between the parties, or taxed to the losing party, in the discretion of the court.

Section 72. No contest of anything or matter herein provided shall be made other than within the time and manner herein specified.

Section 73. For any willful violation of any express duty herein provided for, on the part of any officer herein named, he shall be liable upon his official bond, and be subject to removal from office, by proceedings brought in the superior court of the county wherein the office of the board of directors of the district is located, by any assessment-payer of the district.

Exclusion of Lands.

Section 74. The boundaries of any irrigation district now organized or hereafter organized under the provisions of this act, may be changed, and tracts of land which were included within the boundaries of such district at or after its organization under the provisions of said act, may be excluded therefrom, in the manner herein prescribed; but neither such change of the boundaries of the districts nor such exclusion of lands from the district shall impair or affect its organization, or its right in or to property, or any of its rights or privileges of whatever kind or nature; nor shall it affect, impair, or discharge any contract, obligation, lien, or charge for or upon which said district was and may become liable or chargeable, had such change of its boundaries not been made, or had not such land been excluded from the district.

Section 75. The owner or owners in fee of one or more tracts of land which constitute a portion of an irrigation district may jointly or severally file with the board of directors of the district a petition, praying that such tract or tracts, and any other tracts contiguous thereto, may be excluded and taken from said district. The petition shall state the grounds and reasons upon which it is claimed that such lands should be excluded, and shall describe the boundaries thereof, and also the lands of such petitioner or petitioners which are included within such boundaries; but the description of such lands need not be more particular or certain than is required when the lands are entered in the assessment book by the county assessor. Such petition must be acknowledged in the same manner and form as is required in the case of conveyance of land, and the acknowledgment shall have the same force and effect as evidence as the acknowledgment of such a conveyance.

Section 76. The secretary of the board of directors shall cause a notice of the filing of such petition to be published for

at least two weeks in some newspaper published in the county where the office of the board of directors is situated, and if any portion of such territory to be excluded lie within another county or counties, then said notice shall be so published in a newspaper published within each of said counties; or if no newspaper be published therein, then by posting such notice for the same time in at least three public places in said district, and in case of the posting of said notices one of said notices must be so posted on the lands proposed to be excluded. The notice shall state the filing of such petition, the names of the petitioners, a description of the lands mentioned in said petition, and the prayer of said petition; and it shall notify all persons interested in, or who may be affected by such change of the boundaries of the district, to appear at the office of said board at a time named in said notice, and show cause, in writing, if any they have, why the change of boundaries of said district, as proposed in such petition, should not be made. The time to be specified in the notice at which they shall be required to show cause shall be the regular meeting of the board next after the expiration of the time for the publication of the notice.

Section 77. The board of directors, at the time and place mentioned in the notice, or at the time or times to which the hearing of said petition may be adjourned, shall proceed to hear the petition, and all evidence or proofs that may or shall be introduced by or on behalf of the petitioner or petitioners, and all objections to such petition that may or shall be presented in writing by any person showing cause as aforesaid, and all evidence and proofs that may be introduced in support of such objections. Such evidence shall be taken down in shorthand, and a record made thereof and filed with the board. The failure of any person interested in said district, other than the holders of bonds thereof outstanding at the time of the filing of said petition with said board, to show cause, in writing, why the tract or tracts of lands mentioned in said petition should not be excluded from said district, shall be deemed and taken as an assent by him to the exclusion of such tract or tracts of land, or any part thereof from said district; and the filing of such petition with said board, as aforesaid, shall be deemed and taken as an assent by each and all of such petitioners to the exclusion from such district of the lands mentioned in the petition, or any part thereof. The expenses of giving said notice and of the aforesaid proceeding shall be paid by the person or persons filing such petition.

Section 78. If, upon the hearing of any such petition, no evidence or proofs in support thereof be introduced, or if the evidence fail to sustain said petition, or if the board deem it not for the best interests of the district that the lands, or some portion thereof, mentioned in the petition, should be excluded from the district, the board shall order that said petition be denied as to such lands; but if the said board deem it for the best interest of the district that the lands mentioned in the petition, or some portion thereof, be excluded from the district, and if no person interested in the district show cause in writing why the said lands, or some portion thereof, should not be excluded from the district, or if, having shown cause, withdraws the same, or upon the hearing fails to establish such objections as he may have made, then it shall be the duty of the board to, and it shall forthwith, make an order that the lands mentioned and described in the petition, or some defined portion thereof, be excluded from said district; provided, that it shall be the duty of said board to so order, upon petition therefor as aforesaid, that all lands so petitioned to be excluded from said

district shall be excluded therefrom, which can not be irrigated from, or which are not susceptible to, or would not, by reason of being permanently devoted to uses other than agricultural, horticultural, viticultural or grazing, be directly benefited by, the actual irrigation of same from a common source or by the same system of works with the other lands of said district, or from the source selected, chosen, or provided, or the system adopted for the irrigation of the lands in said district, or which are already irrigated, or entitled to be irrigated, from another source or by another system of irrigation works; provided, that no land irrigated by means of water, pumped from an underground source or sources shall be entitled to exclusion from any irrigation district on account of being so irrigated, if it shall be shown that such land is or will be substantially benefited by subirrigation from the works of said district or by drainage works provided or required by law to be provided by said district, but no owner of land in any irrigation district shall be required to pay any assessment, except for the payment of interest and principal due on bonds of the district, on any land in such district which, when the district was organized, was irrigated by means of water pumped from an underground source or sources and has continued each year to be irrigated exclusively by such means. (1913.)

Section 79. If there be outstanding bonds of the district at the time of the filing of said petition, the holders of such outstanding bonds may give their assent, in writing, to the effect that they severally consent that the lands mentioned in the petition, or such portion thereof as may be excluded from said district by order of said board, or the decree of the superior court as hereinafter provided, may be excluded from the district; and if said lands, or any portion thereof, be thereafter excluded from the district, the lands so excluded shall be released from the lien of such outstanding bonds. The assent must be acknowledged by the several holders of such bonds in the same manner and form as is required in case of a conveyance of land, and the acknowledgment shall have the same force and effect as evidence as the acknowledgment of such conveyance. The assent shall be filed with the board, and must be recorded in the minutes of the board; and said minutes, or a copy thereof, certified by the secretary of said board, shall be admissible in evidence, with the same effect as the said assent, and such certified copy thereof may be recorded in the office of the county recorder of the county wherein said lands are situated.

Section 80. In the event that said board of directors shall exclude any lands from said district upon petition therefor, it shall be the duty of the board of directors to make an entry in the minutes of the board, describing the boundaries of the district, should the exclusion of said land from said district change the boundaries of said district, and for that purpose the board may cause a survey to be made of such portions of the district as the board may deem necessary; and a certified copy of the entry in the minutes of the board excluding any land, certified by the president and secretary of the board, shall be filed for record in the recorder's office of each county within which are situated any of the lands of the district; but said district, notwithstanding such exclusion, shall be and remain an irrigation district as fully, to every intent and purpose, as it would be had no change been made in the boundaries of the district, or had the lands excluded therefrom never constituted a portion of the district.

Section 81. If the lands excluded from any district under this act shall embrace the greater portion of any division or

divisions of such district, then the office of director for such division or divisions shall become and be vacant at the expiration of ten days from the final order of the board excluding said lands; and such vacancy or vacancies shall be filled by appointment by the board of supervisors of the county where the office of such board is situated, from the district at large. A director appointed as above provided, shall hold his office until the next regular election for said district, and until his successor is elected and qualified.

Section 82. At least thirty days before the next general election of such district, the board of directors thereof shall make an order dividing said district into three or five divisions, as the case may require, as nearly equal in size as may be practicable, which shall be numbered first, second, third, and so on, and one director shall be elected by each division. For the purposes of elections in such district, the said board of directors must establish a convenient number of election precincts, and define the boundaries thereof, which said precincts may be changed from time to time, as the board of directors may deem necessary.

Section 83. A guardian and executor, or an administrator of an estate, who is appointed as such under the laws of this state, and who, as such guardian, executor, or administrator, is entitled to the possession of the lands belonging to the estate which he represents, may, on behalf of his ward, or the estate which he represents, upon being thereto properly authorized by the proper court, sign and acknowledge the petition in this act mentioned, and may show cause, as in this act provided, why the boundaries of the district should not be changed.

Section 84. Nothing in this act provided shall, in any manner, operate to release any of the lands so excluded from the district from any obligation to pay, or any lien thereon, of any valid outstanding bonds or other indebtedness of said district at the time of the filing of said petition for the exclusion of said lands, but upon the contrary, said lands shall be held subject to said lien, and answerable and chargeable for and with the payment and discharge of all of said outstanding obligations at the time of the filing of the petition for the exclusion of said land, as fully as though said petition for such exclusion were never filed and said order or decree of exclusion never made; and for the purpose of discharging such outstanding indebtedness, said lands so excluded shall be deemed and considered as part of said irrigation district the same as though said petition for its exclusion had never been filed or said order or decree of exclusion never made; and all provisions which may have been resorted to to compel the payment by said lands of its quota or portion of said outstanding obligations, had said exclusion never been accomplished, may, notwithstanding said exclusion, be resorted to to compel and enforce the payment on the part of said lands of its quota and portion of said outstanding obligation of said irrigation district for which it is liable, as herein provided. But said land so excluded shall not be held answerable or chargeable for any obligation of any nature or kind whatever, incurred after the filing with the board of directors of said district of the petition for the exclusion of said lands from the said district; provided, that the provisions of this section shall not apply to any outstanding bonds, the holders of which have assented to the exclusion of such lands from said district, as herein provided.

Inclusion of Lands.

Section 85. The boundaries of any irrigation district now

organized or hereafter organized under the provisions of this act may be changed in the manner herein prescribed; but such change of the boundaries of the district shall not impair or affect its organization, or its rights in or to property, or any of its rights or privileges of whatsoever kind or nature; nor shall it affect, impair, or discharge any contract, obligation, lien, or charge for or upon which it was or might become liable or chargeable, had such change of its boundaries not been made.

Section 86. The holder or holders of title, or evidence of title, representing one-half or more of any body of lands adjacent to the boundary of an irrigation district, which are contiguous, and which, taken together, constitute one tract of land, may file with the board of directors of said district a petition, in writing, praying that the boundaries of said district may be so changed as to include therein said lands. The petition shall describe the boundaries of said parcel or tract of land, and shall also describe the boundaries of the several parcels owned by the petitioners, if the petitioners be the owners, respectively, of distinct parcels, but such descriptions need not be more particular than they are required to be when such lands are entered by the county assessor in the assessment book. Such petition must contain the assent of the petitioners to the inclusion within said district of the parcels or tracts of land described in the petition, and of which said petition alleges they are, respectively, the owners; and it must be acknowledged in the same manner that conveyances of land are required to be acknowledged.

Section 87. The secretary of the board of directors shall cause a notice of the filing of such petition to be given and published in the same manner and for the same time that notices of special elections for the issue of bonds are required by this act to be published. The notice shall state the filing of such petition and the names of the petitioners, a description of the lands mentioned in said petition, and the prayer of said petition; and it shall notify all persons interested in, or that may be affected by such change of the boundaries of the district, to appear at the office of said board, at a time named in said notice, and show cause in writing, if any they have, why the change in the boundaries of said district, as proposed in said petition, should not be made. The time to be specified in the notice at which they shall be required to show cause shall be the regular meeting of the board next after the expiration of the time for the publication of the notice. The petitioners shall advance to the secretary sufficient money to pay the estimated costs of all proceedings under this act.

Section 88. The board of directors, at the time and place mentioned in the said notice, or at such other time or times to which the hearing of said petition may be adjourned, shall proceed to hear the petition, and all the objections thereto, presented in writing by any person showing cause as aforesaid, why said proposed change of the boundaries of the district should not be made. The failure by any person interested in said district, or in the matter of the proposed change of its boundaries, to show cause, in writing, as aforesaid, shall be deemed and taken as an assent on his part to a change of the boundaries of the district as prayed for in said petition, or to such a change thereof as will include a part of said lands. And the filing of such petition with said board, as aforesaid, shall be deemed and taken as an assent on the part of each and all of such petitioners to such a change of said boundaries that they

may include the whole or any portion of the lands described in said petition.

Section 89. The board of directors to whom such petition is presented, may require, as a condition precedent to the granting of the same, that the petitioners shall severally pay to such district such respective sums, as nearly as the same can be estimated (the several amounts to be determined by the board), as said petitioners or their grantors would have been required to pay to such district as assessments, had such lands been included in such district at the time the same was originally formed.

Section 90. The board of directors, if they deem it not for the best interests of the district that a change of its boundaries be so made as to include therein the lands mentioned in the petition, shall order that the petition be rejected. But if they deem it for the best interests of the district, that the boundaries of said district be changed, and if no person interested in said district or the proposed change of its boundaries shows cause, in writing, why the proposed change should not be made, or if, having shown cause, withdraws the same, the board may order that the boundaries of the district be so changed as to include therein the lands mentioned in said petition or some part thereof. The order shall describe the boundaries as changed, and shall also describe the entire boundaries of the district as they will be after the change thereof as aforesaid is made; and for that purpose the board may cause a survey to be made of such portions of such boundary as is deemed necessary.

Section 91. If any person interested in said district, or the proposed change of its boundaries, shall show cause as aforesaid why such boundaries should not be changed, and shall not withdraw the same, and if the board of directors deem it for the best interests of the district that the boundaries thereof be so changed as to include therein the lands mentioned in the petition, or some part thereof, the board shall adopt a resolution to that effect. The resolution shall describe the exterior boundaries of the lands which the board are of the opinion should be included within the boundaries of the district when changed.

Section 92. Upon the adoption of the resolution mentioned in the last preceding section, the board shall order that an election be held within said district, to determine whether the boundaries of the district shall be changed as mentioned in said resolution; and shall fix the time at which such election shall be held, and cause notice thereof to be given and published. Such notice shall be given and published, and such election shall be held and conducted, the returns thereof shall be made and canvassed, and the result of the election ascertained and declared, and all things pertaining thereto conducted in the manner prescribed by said act in case of a special election to determine whether bonds of an irrigation district shall be issued. The ballots cast at said election shall contain the words "For change of boundary," or "Against change of boundary," or words equivalent thereto. The notice of election shall describe the proposed change of the boundaries in such manner and terms that it can readily be traced.

Section 93. If at such election a majority of all the votes cast at said election shall be against such change of the boundaries of the district, the board shall order that said petition be denied, and shall proceed no further in that matter. But if a majority of such votes be in favor of such change of

the boundaries of the district, the board shall thereupon order that the boundaries be changed in accordance with said resolution adopted by the board. The said order shall describe the entire boundaries of said district, and for that purpose the board may cause a survey of such portions thereof to be made as the board may deem necessary.

Section 94. Upon a change of the boundaries of a district being made, a copy of the order of the board of directors ordering such change, certified by the president and secretary of the board, shall be filed for record in the recorder's office of each county within which are situated any of the lands of the district, and thereupon the district shall be and remain an irrigation district as fully, and to every intent and purpose, as if the lands which are included in the district by the change of boundaries, as aforesaid, had been included therein at the original organization of the district.

Section 95. Upon the filing of the copies of the order, as in the last preceding section mentioned, the secretary shall record in the minutes of the board the petition aforesaid; and the said minutes, or certified copy thereof, shall be admissible in evidence, with the same effect as the petition.

Section 96. A guardian, an executor, or an administrator of an estate, who is appointed as such under the laws of this state, and who, as such guardian, executor, or administrator, is entitled to the possession of the lands belonging to the estate which he represents, may, on behalf of his ward, or the estate which he represents, upon being thereunto authorized by the proper court, sign and acknowledge the petition in this act mentioned, and may show cause, as in this act mentioned, why the boundaries of the district should not be changed.

Section 97. In case of the inclusion of any land within any district by proceeding under this act, the board of directors must, at least thirty days prior to the next succeeding general election, make an order redividing such district into three or five divisions, as the case may require, as nearly equal in size as may be practicable, which shall be numbered first, second, third, and so on, and one directors shall thereafter be elected by each division. For the purposes of elections, the board of directors must establish a convenient number of election precincts in said districts, and define the boundaries thereof, which said precincts may be changed from time to time, as the board may deem necessary.

Reduction of Bonded Indebtedness.

Section 98. Whenever the board of directors of an irrigation district heretofore organized, or hereafter organized under the provisions of this act, shall determine that the authorized bonded indebtedness of such irrigation district is greater than such district is liable to need to complete its system as planned, and there be no outstanding bonds, the board of directors may call a special election for the purpose of voting upon a proposition to reduce such bonded indebtedness to such sum as the board may determine to be sufficient for such purpose.

Section 99. Notice of the said election shall be given in the same manner as provided in section 30 of said act, in relation to calling special elections for issuance of bonds. The notice of election must state the amount of the authorized bonded indebtedness of such district, and the amount to which it is proposed to reduce the same; also, the date on which

said election will be held, and the polling places, as established by said board of directors. The ballots cast at said election shall contain the words "For reducing bonds—Yes," or "For reducing bonds—No." When the vote is canvassed by the board of directors and entered of record, if a majority of the votes cast shall be "For reducing bonds—Yes," then in that event the board of directors shall only be empowered to issue or sell such amount of bonds as was stipulated in the said notice of such special election; but if a majority of votes are not "For reducing bonds—Yes," then the authority to issue bonds shall remain the same as before said special election was held.

Section 99½. In case there be outstanding bonds of any district desiring to take advantage of the provisions of this act concerning reduction of bonded indebtedness, the assent of such bondholders may be obtained to such reduction of the bonded indebtedness, in the same manner as provided in section 79 of this act. If such assent is obtained in the manner therein provided, then, and in that event, such district shall be empowered to take advantage of all the provisions of this act, but not otherwise. No reduction of the bonded indebtedness, as in this act provided, shall in any manner affect any order of court that may have been made, adjudicating and confirming the validity of said bonds.

Lease of Water for Mechanical Purposes.

Section 100. Whenever any irrigation district, heretofore organized, or hereafter organized under the provisions of this act, in the development of its works as by law provided, may have opportunity, without increased expenditure, to utilize the water by it owned or controlled, for mechanical purposes not inconsistent with the provisions of said act, the board of directors may lease the same, as in this act hereinafter provided.

Section 101. Whenever the board of directors may desire to lease the use of water, as hereinbefore stated, they shall pass a resolution of intention to so lease the same. Immediately thereafter the secretary shall cause notice of such intention to be given by publication in one newspaper published in each county in which lands of the district are situated, for at least twenty days (provided, a newspaper is published therein, otherwise in any newspaper the board of directors may select), and, if the board thinks proper, in such other newspaper as may be deemed advisable, calling for bids for the leasing of said water for the purposes hereinbefore mentioned. Said notice shall state that the board will receive sealed proposals therefor, that the lease will be let to the highest responsible bidder, stating the time and place of opening said proposals.

Section 102. At the time and place appointed the board shall proceed to open the proposals in public. As soon thereafter as may be convenient the board shall let said lease in portions, or as a whole, to the highest responsible bidder, or they may reject any and all bids, and readvertise for proposals for the same.

Section 103. The rental accruing upon said lease may vary from year to year, as shall be specified in said lease, and shall be payable semi-annually, on the thirteenth day of December and thirtieth day of June, of each year. All moneys collected, as in this act provided, shall be paid into the treasury, and be apportioned to such funds as may be deemed advisable.

Section 104. The board shall have power, as in this act provided, to execute a lease for any period not exceeding

twenty-five years. If at any time the rental shall not be paid on the days hereinbefore mentioned, the amount of such rental then due shall be doubled, and if not paid within ninety days thereafter, the said lease shall be forfeited to said district, together with any and all works constructed, owned, used, or controlled by said lessee.

Section 105. Upon the letting of any lease, as in this act provided, the board may require the lessee to execute a bond for the faithful performance of the covenants of said lease, or give such other evidence of good faith as in their judgment may be necessary.

Destruction of Unsold Bonds.

Section 106. Whenever there remains in the hands of the board of directors of any irrigation district heretofore organized, or organized under the provisions of this act, after the completion of its ditch system, and the payment of all demands against such district, any bonds voted to be issued by said district, but not sold, and not necessary to be sold for the raising of funds for the use of such district, said board of directors may call a special election for the purpose of voting upon a proposition to destroy said unsold bonds, or so many of them as may be deemed best, or may submit such proposition at a general election.

Section 107. Such election shall be held in the same manner as other elections held under the provisions of this act. A notice of such election shall be given in the same manner as provided in section 30 of this act in relation to calling special elections for the issuance of bonds. The notice of election must state the amount of the bonded indebtedness of such district authorized by the vote of the district, the amount of the bonds remaining unsold, and the amount proposed to be destroyed, and the date on which such election is proposed to be held, and the polling places as fixed by the board of directors. The ballots to be cast at such election shall contain the words "For destroying bonds—Yes," and "For destroying bonds—No," and the voter must erase the word "No" in case he favors the destruction of bonds, otherwise the word "Yes."

Section 108. When the vote is canvassed by the board of directors and entered of record, if a two-thirds majority of the votes cast should be found to be in favor of the destruction of said bonds, then the president of the board, in the presence of the majority of the members of the board, must destroy the bonds so voted to be destroyed; and the total amount of bonds so destroyed and canceled shall be deducted from the sum authorized to be issued by the electors of said district, and no part thereof shall thereafter be reprinted or reissued.

Saving Clauses.

Section 109. Nothing in this act shall be so construed as to affect the validity of any district heretofore organized under the laws of this state, or its rights in or to property, or any of its rights or privileges of whatsoever kind or nature; but said districts are hereby made subject to the provisions of this act so far as applicable; nor shall it affect, impair, or discharge any contract, obligation, lien, or charge for, or upon which it was or might become liable or chargeable had not this act been passed; nor shall it affect the validity of any bonds which have been issued but not sold; nor shall it affect any action which now may be pending.

Section 110. Nothing in this act shall be construed as repealing or in anywise modifying the provisions of any other act relating to the subject of irrigation or water commissioners, except such as may be contained in the act: An act entitled an act to provide for the organization and government of irrigation districts, and to provide for the acquisition of water and other property, and for the distribution of water thereby for irrigation purposes, approved March seventh, eighteen hundred and eighty-seven, and the subsequent acts supplementary thereto, and amendatory thereof, all of which acts, so far as they be inconsistent herewith, are hereby repealed.



ANALYSIS

The following is an analysis of the more important legislation, not included in the act of 1897, or the amendments thereto, relative to irrigation districts and the securities thereof.

Assessments Payable in Two Installments.

Statutes of 1909, page 415.—This act authorizes boards of directors to provide for the payment of irrigation assessments in two installments. When such provision is made the installments become delinquent the last Monday in December and the last Monday in June, respectively.

Assessments levied in accordance with section 34 of the irrigation act can not be paid in two installments.

Agricultural Expert.

Statutes 1913, page 75, provide that irrigation directors may employ agricultural experts.

Bonds of Irrigation Districts.

Statutes 1913, page 778.—This act provides:

First: A limitation upon the indebtedness of irrigation districts.

Second: For an examination by a commission consisting of the attorney general, the state engineer and the superintendent of banks, of the bond issues of districts.

Third: For a written report of such investigation filed in the office of the state controller.

Fourth: For a certificate by the state controller of such examination.

Fifth: That the bonds so approved shall be legal investments for all trust funds and for the funds of all insurance companies, banks, both commercial and savings, trust companies, the state school funds and any funds which may be invested in county, municipal or school district bonds, and that such bonds may be deposited as security for the performance of any act whenever the bonds of any county, city, city and county or school district may be so deposited, and also that such bonds may be used as security for the deposit of public money in banks in California.

Irrigation Bonds as Security for the Deposit of Municipal Moneys.

Statutes of 1913, page 607, provide that banks may borrow county and municipal moneys and give as security therefor irrigation bonds.

School Funds May Be Invested in Irrigation Bonds.

Section 676, Political Code, as amended in 1913, provides that the proceeds of the sale of state school lands may be invested in irrigation bonds.

Irrigation Bonds as Security for the Deposit of State Funds.

Statutes of 1913, page 108, provide that the bonds of irrigation districts may be received as security for the deposit of state funds. Con. Art. Sec. 16½.

Condemnation of Rights of Way for Private Canals.

Section 2692 of the Political Code as amended in 1913 provides that private ways for a canal may be opened, laid out or altered in the same manner as public roads are opened, laid out and altered. This is intended to permit the owners of land who are compelled to cross the property of other persons with an irrigation ditch to condemn a right of way for such ditch.

County Assessment Book.

Section 3653, Political Code, as amended in 1913, provides that the county assessor must furnish to irrigation districts, upon written request, a complete certified copy of his assessment book so far as such assessment book pertains to property within the limits of such irrigation district. This will be of material assistance to district assessors.

Drainage Act.

Statutes of 1907, page 569.—This act gives to boards of directors of irrigation districts the same powers with regard to the drainage of the land included within the districts that they possess with regard to the irrigation thereof.

Electrical Power. Appropriations by Irrigation Districts of Water for Such Power.

Section 1410, Civil Code, as amended in 1913, provides under what circumstances irrigation districts may appropriate water for electrical power.

Funding Act.

An act to provide for refunding bonds was passed in 1897 and amended in 1901. Statutes of 1901, page 514.

Registration of Bonds.

Statutes of 1913 provide that upon presentation to the treasurer of any coupon bonds the same may be registered and thereafter possess all the characteristics of registered bonds.

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